

REMARKS/ARGUMENTS

The Examiner has required that the Applicant make a restriction requirement as to the claims pending in this application. The Examiner has grouped the claims as follows: Group I for claims 1-16 drawn to an apparatus; and Group II for claims 17-27 drawn to a method. Applicant understands that a restriction requirement must be entered in accordance with 37 C.F.R. § 1.143. As such, Applicant elects to prosecute Group II (claims 17-27). However, Applicant respectfully traverses the restriction requirement.

Applicant asserts that a restriction requirement in this application is improper because Groups I and II relate to a method and an apparatus for its practice. A method and an apparatus may be restricted if either the process as claimed can be practiced by another materially different process. Helifix, Ltd. v. Blok-Lok, Ltd., 208 F.3d 1339, 1348 (Fed. Cir. 2000). Independent claim 17, and claims 18-27 that depend therefrom, disclose a method that requires co-extruding a continuous string of food which is provided with a collagen layer, subjecting the collagen layer to a coagulating treatment, and separating the string of food into separate units. Independent claim 1, and claims 2-16 that depend therefrom, disclose an apparatus that requires co-extrusion means for co-extruding a continuous string of food which is provided with a collagen layer, means for supplying coagulants to the food product while the food product is being transported on a transporting device, and a separating device for separating the string of food into separate units.

The Examiner has required that the claims be restricted because "the method of Group II does not include the separating device and a transport member with carriers." (Office Action, page 2, lines 13-14). This is not correct. The method of Group II requires the step of separating the string of food into separate units, as stated above. As stated in the specification, this step is accomplished through the use of a separating device, as required by the apparatus of Group I. (Specification, page 13, lines 5-7). Further, the method of Group II requires the step of supplying coagulants to the food products, as stated above. As stated in the specification, this step is accomplished through the use of a transporting device, as required by the apparatus of Group I. (Specification, page 13, lines 9-11).

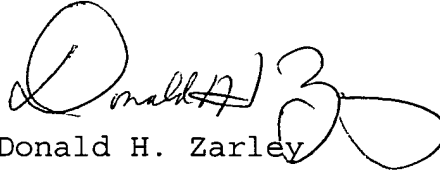
Group II merely recites the steps in which the invention required by Group I is used to co-extrude a food product. As such, claims 1-16 should not be restricted from the prosecution of elected claims 17-27. Accordingly, Applicant believes that a restriction requirement in this application is improper and should be withdrawn such that claim 1-17 may continue prosecution as a single elected group.

CONCLUSION

In view of the above amendments and remarks, Applicant believes claims 1-27 are in condition for allowance and respectfully requests allowance of such claims. If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515/558-0200.

Any fees or extensions of time believed to be due in connection with this amendment are enclosed herein; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 50-2098.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald H. Zarley", with a large, stylized flourish at the end.

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